

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

VIVEK SHAH,

Petitioner,

v.

CIVIL ACTION NO. 5:15-cv-7542  
(Criminal Nos. 5:12-cr-172 & 5:13-cr-127)

UNITED STATES OF AMERICA,

Respondent.

**ORDER**

The Court has reviewed the Plaintiff's *Motion for Leave to Conduct Discovery* (Document 156) and *Declaration in Support* (Document 157). The Court has also reviewed the Plaintiff's *Motion to Hold Magistrate's PF&R in Abeyance Pending Discovery and Evidentiary Hearing, and to Withdraw Notice of Appeal* (Document 163). In his motion for leave to conduct discovery, the Plaintiff requests that this Court subpoena certain evidence for him for use in a requested evidentiary hearing. Further, in his motion to hold the matter in abeyance and withdraw his appeal, the Plaintiff requests that the Court hold Magistrate Judge Aboulhosen's *Proposed Findings and Recommendation* (PF&R) (Document 144) in abeyance, hold an evidentiary hearing, and withdraw his notice of appeal.


After careful consideration, the Court **ORDERS** that the *Motion to Hold Magistrate's PF&R in Abeyance Pending Discovery and Evidentiary Hearing, and to Withdraw Notice of Appeal* (Document 163) be **GRANTED** in part and **DENIED** in part. Insofar as the Plaintiff requests that his notice of appeal be withdrawn while the Court considers his objections to the

Magistrate Judge's PF&R, the Court **ORDERS** that the motion be **GRANTED**, and the Notice of Appeal is **WITHDRAWN**. However, given that the Court is currently considering the Plaintiff's objections to the PF&R, to the extent the Plaintiff requests that the PF&R be held in abeyance and that he be given an evidentiary hearing, the Court **ORDERS** that the motion be **DENIED**.

Lastly, inasmuch as the Plaintiff's motion for an evidentiary hearing is denied, the Court **ORDERS** that the *Motion for Leave to Conduct Discovery* (Document 156) be **DENIED**.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: March 7, 2017

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA